

Working Draft CVP M&I Water Shortage Policy Comment Summary

This summary of comments received on the Draft Central Valley Project (CVP) Municipal and Industrial (M&I) Water Shortage Policy (WSP) compiles suggested revisions, objections, and requests for clarification received from federal contractors. Comments are organized by general issue area and are attributed to the original commenter. In addition, Reclamation has provided a preliminary response after each comment. All comments were received in November 2010, after Workshop 4 unless otherwise stated.

Adjustment of Population Growth:

- Reclamation intends for adjustments for population to be applied to Non-CVP water supplies as well as to CVP deliveries in historical Unconstrained Years. A number of edits should be made to reflect this intent. (“M&I Contractors”)

Preliminary Response: Reclamation intends to apply population growth adjustments to the three prior unconstrained years in which CVP water was used.

Applicability:

- The WSP is not intended to pertain to the Friant Division or the East Side Division. For the sake of clarity, the WSP should include text to clarify the extent and limit of the Policy’s applicability. (Friant Authority and “M&I Contractors”)

Preliminary Response: The WSP will not apply to the Friant Division and the East Side Division. Text will be added to clarify, where appropriate.

Availability of CVP Water:

- Reclamation makes discretionary decisions with regards to its CVP operations, which may ultimately affect the availability of water for public health and safety in certain divisions. The Policy should make it clear that Reclamation will exercise its operational discretion to deliver at least necessary water supplies for public health and safety. (“M&I Contractors”)

Preliminary Response: Reclamation recognizes the importance of reliable water supplies even in drought years, and will strive to provide CVP water, after taking into consideration available non-CVP water supplies in such years, to meet a contractor’s public health and safety need. However, Reclamation cannot guarantee a minimum supply of CVP water, because in



some years there may be insufficient CVP water available to meet all CVP contractors' public health and safety needs.

Enforcement and Justification:

- The proposed policy would have substantially the same negative impacts on irrigation contractors as noted in prior correspondence. As pointed out before, this proposed policy cannot be justified and enforced in light of Section 9(c) of the 1939 Act (43 USC 485h(c), "No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes."). This latest draft does not address either how this proposed policy can be pursued in light of the applicable law for Reclamation providing municipal water supplies, nor how Reclamation will mitigate the obvious impacts this proposed policy would have on irrigation contractors. (Del Puerto Water District, James Irrigation District)

Preliminary Response: No response can be provided at this time, because the analysis for determining the WSP's potential impacts on the human and physical environments is not completed.

Environmental Analysis:

- The water supply impacts on South of Delta irrigation contractors will be significant. The extent of the delivery reductions should be modeled and clearly identified. The environmental documentation needs to analyze and measure the effects of the WSP agencies the true, no-policy, no-M&I preference alternative. (Del Puerto Water District, James Irrigation District)

Preliminary Response: Reclamation intends to conduct computer modeling to determine the WSP impacts on water supplies (surface water and groundwater).

- The M&I Contractors are pleased with Reclamation's decision to prepare a new environmental review document analyzing the draft Policy. The M&I Contractors encourage Reclamation to work with individual contractors, in advance of any analysis, regarding the modeling assumptions, particularly the modeling assumptions for public health and safety demands. ("M&I Contractors")

Preliminary Response: Reclamation will work with CVP contractors to determine reasonable public health and safety assumptions using readily available population data.



Extraordinary Conservation:

- To make an extraordinary water conservation adjustment, a contractor must be up to date with its UWMP. Some contractors have contracts below the UWMP threshold and are small, both in contract quantity and in resources. Completing and maintaining a UWMP would be a large expense for these contractors. The adjustment provisions in Term and Condition 2 should also apply to contractors that can demonstrate extraordinary conservation even if they are not obliged to provide UWMPs. (Shasta County Water Agency)

Preliminary Response: Reclamation intends to work with all CVP contractors, including those who fall below the UWMP threshold, on a case-by-case basis to ensure reasonable adjustments are made, as applicable, taking into account the implementation of extraordinary water conservation measures that are mutually agreed upon by Reclamation and the contractor.

- At the last workshop Reclamation clarified that an “extraordinary” water conservation measure would include those that accelerate conservation yield ahead of the CUWCC’s schedule. The first sentence of the draft policy’s definition of “Extraordinary Water Conservation Measures” should be revised to read: “Conservation measures that exceed the applicable BMPs adopted by the CUWCC, including those measures that accelerate levels of conservation expected by the CUWCC.” (“M&I Contractors”)

Preliminary Response: Reclamation will make this revision as suggested.

Historical Use:

- It may be inappropriate to consider a year “unconstrained” for years in which Reclamation begins allocations with shortages and then increases allocations to 100%. The draft WSP’s definition for “Unconstrained Year” should include an example of a unique circumstances in which a contractor declares a water shortage condition prior to Reclamation’s declaration of a 100% allocation. Contractors then may designate an alternate year to be an “Unconstrained Year” for purposes of determining Historical Use. (“M&I Contractors”)

Preliminary Response: Upon a CVP contractor’s request, Reclamation will commit to work with contractors on a case-by-case basis to identify the three historic unconstrained years of CVP water use prior to making any adjustments.



Non-CVP Water:

- The goal of contractors using non-CVP supplies first and using the CVP as supplemental water is laudable but impractical in Shasta County. Contractors that have not been able to develop supplemental supplies because of geographic (low-producing groundwater basins) and environmental issues (concern for transfers that could deplete the cold water pool) should not be discriminated against. The WSP should make this clear. (Shasta County Water Agency)

Preliminary Response: Reclamation intends to work with Shasta County CVP contractors on a case-by-case basis. The WSP pertains to CVP water usage, but does take into consideration non-CVP water supplies, where applicable.

- Not all Non-CVP water supplies are interchangeable. Reclamation considers a contractor's Non-CVP water in two distinct contexts. Recycled water cannot be considered available for domestic use in Equation 5 of the Implementation Guidelines. ("M&I Contractors")

Preliminary Response: Reclamation agrees that recycled water should not be considered as a non-CVP supply when comparing the public health and safety need (as calculated in accordance with Equation 5) to a CVP contractor's available non-CVP supplies when determining the unmet need, as shown in Figure 1. Recycled water is typically non-potable, i.e. not available for domestic use.

Public Health and Safety:

- "Public health and safety" levels of supply are cited throughout the Policy, but just what is required for public health and safety is not numerically defined. If the numerical definition is expected to change, the Policy should state the current location of this criterion, not just the agency responsible for its promulgation. (Shasta County Water Agency)

Preliminary Response: Equation 5 in the Implementation Guidelines provides the numerical numbers (55 gallons per capita per day, 80% of commercial use, 90% of industrial use, and 10% for system losses) required to calculate public health and safety water quantities, which are consistent with the state's criteria. If the state's criteria changes in any given year, then Reclamation would modify its numbers to agree with the state.

- Reclamation has stated its intent to deliver CVP water to M&I contractors at not less than Public Health and Safety Levels, providing water is available, as expressed in Term and Condition 7. Figure 1 in Chapter 3 and Section 3.3.1 of the implementation procedures for public health and safety should be revised to reflect this intent. ("M&I Contractors")



Preliminary Response: Reclamation will revise Figure 1 and Section 3.3.1 to clarify its intention, as suggested.

Requests for Clarification:

- Please clarify that contractors are entitled to rely on Alternative 1B from the EA when calculating that portion of their contract is subject to the WSP. (West Side Irrigation District, June 2010)

Preliminary Response: Until the WSP is “finalized”, which will be when environmental compliance is completed, the existing 2001 WSP, as described by Alternative 1B, will remain in effect. After such time, Reclamation will implement the “final” WSP.

- West Side Irrigation District would like to meet with Reclamation to discuss how WSID’s Water Needs Assessment is to be interpreted for use in calculating WSID’s projected M&I demand. When land within WSID develops to M&I demand, it is annexed into the City of Tracy and the M&I water use is transferred to the City of Tracy. WSID believes that 2,500 AF of WSID’s contract (now transferred to the City of Tracy) is eligible under the WSP, and an additional 2,500 AF will be subject to the WSP in the future as demand develops. (West Side Irrigation District, June 2010)

Preliminary Response: Reclamation is willing to meet with WSID to discuss the interpretation of their Water Needs Assessment.

